IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/08/2004

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.18169 of 1998
and W.P.No.6346 of 1999

1.S.Pandi
2.P.Santhanam
3.S.Rajasekaran
4.R.Alagar Samy .. Petitioners in
WP 18169/98

-vs-

Madurai Kamaraj University
rep. by its Registrar
Palkalai Nagar
Madurai 625 021. .. Respondent in
WP 18169/98

K.Palanikumar .. Petitioner in
WP 6346/99

vs

1.The Registrar
Madurai Kamaraj University
Palkalai Nagar
Madurai 625 021.
2.The Head and Co-ordinator
School of Biotechnology
Madurai Kamaraj University
Madurai 625 021. .. Respondents in
WP 6346/99

W.P.18169 of 1998 is filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondent to absorb the petitioners in the regular service of the University with continuity of service and with all other attendant benefits.
W.P.6346 of 1999 is filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to pass orders by appointing the petitioner in the permanent post of Lab Assistant/attender in any of the departments of the respondent university.

!For Petitioners in

WP 18169/98 : Mr.R.Achuthan

For Petitioner in
WP 6346/99 : Mr.Silambanan

^For Respondents : Mr.P.Jothimani

:COMMON ORDER

This order shall govern both the writ petitions in W.P.Nos.18169/98 and 6346/99.
2. W.P.No.18169 of 1998 is brought forth by four petitioners, while W.P.No.6346 of 1999 is brought forth by one petitioner.
3. All the petitioners in both the writ petitions have come forward with these writ petitions seeking a writ of mandamus directing the respondent namely the Madurai Kamaraj University to absorb the petitioners in the regular post of the University with continuity of service and with all other attendant benefits.
4. From the averments made in the affidavit filed in support of WP No.18169/98, it could be seen that the first petitioner joined the service of the respondent University in the Department of Plant Science as Lab Assistant from the Forenoon of 11.11.88 by an order dated 3.1.89, and he has been continuously working in the school of Biological Science except for a short break. He has put in 13 years and 4 months of service. The second petitioner joined the service of the University in the school of Bio-Technology as Driver on 6.6.88 and has been continuously working there. He has put in 10 years and 5 months of service. The third petitioner joined the service of the University on 1.4.91 as Driver in the school of Biological Sciences and has been continuously working in the Biomass Research Centre till 31.3.98. The fourth petitioner joined the service of School of Biological Science on 3.2.92 and has been continuously working as Driver cum Field Assistant.
5. It is brought to the notice of the Court by the learned Counsel for the petitioners in WP 18169/98 that the second petitioner was absorbed, and his service has been regularised, and hence, in his regard, the writ petition is not pressed; but, in respect of the petitioners 1, 3 and 4, the relief is sought for.
6. Insofar as the petitioner in WP 6346/99, he joined the University in 1989 as a Casual Labourer in the Department of Biotechnology, and he later completed his pre-foundation course and was subsequently working as a Lab Assistant. He had put in 9 years and 6 months of continuous service.
7. The case of the three petitioners in WP 18169/98 as stated above is that they have completed 10 years of service, while the petitioner in WP 6346/99 has completed 9 years and 6 months of service. The learned Counsel for the petitioners placed before this Court, the two resolutions passed by the syndicate. As per the first resolution, the persons who have put in 10 years of service, alone have been absorbed by the University, and their services have been regularised. It is clear from the subsequent resolution that the persons, who have completed five years of service, have also been absorbed and their services have also been regularised.
8. In support of his contention, the learned Counsel for the petitioners relied on a judgment of this Court rendered by P.K.MISRA, J., in

W.P.Nos.18269 and 18271 of 1998 dated 16.10.2003, wherein the earlier order of this Court in W.P.No.16420 of 1999 dated 1.9.2003 was followed in order to give a relief in their favour. It is also brought to the notice of the Court by the Counsel for the respondents that the persons belonging to different departments have also been absorbed in view of their continuous service for a period of five years, which fact is not disputed by the petitioners. So far as the petitioners in WP 18169/98 are concerned, the first petitioner is a lab assistant, while the petitioners 3 and 4 are drivers. Insofar as the petitioner in WP 6346/99, he has been a lab assistant. In view of the judgment passed by this Court stated supra, a direction has got to be issued for the absorption of the first petitioner in WP 18169/98 and the petitioner in WP 6346/99. Insofar as the petitioners 3 and 4 in WP 1816 9/98, as per the subsequent resolution passed by the syndicate, they also have got to be necessarily absorbed, following the others who have been placed on the equal footing. Hence, in both the cases, this Court is of the considered opinion that the writ of mandamus has got to be issued to the respondent University giving a similar direction issued by this Court on the earlier occasion as stated above.

9. In view of the above reasons, the respondent University is directed to regularise the service of the petitioners 1, 3 and 4 in WP 1816 9/98 and the petitioner in WP 6346/99 as and when vacancies arise and till then they shall continue in their post. It goes without saying that the question of regularisation should be considered as expeditiously as possible as and when vacancies arise. Hence, both the writ petitions are accordingly, allowed. As regards the second petitioner in WP 18169/98, the writ petition is dismissed as not pressed. No costs.

Index : yes
Internet: yes

TO:
1.The Registrar
Madurai Kamaraj University
Palkalai Nagar
Madurai 625 021.
2.The Head and Co-ordinator
School of Biotechnology
Madurai Kamaraj University
Madurai 625 021.

nsv/

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